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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GURUPRASAD RAMARAO and AMIT RAIKAR

Appeal 2009-005242
Application 10/637,172
Technology Center 2100

Decided: February 23, 2010

Before LEE E. BARRETT, STEPHEN C. SIU, and JAMES R. HUGHES
Administrative Patent Judges.

SIU, *Administrative Patent Judge.*

DECISION ON APPEAL
STATEMENT OF THE CASE

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1-20. We have jurisdiction under 35 U.S.C. § 6(b).

The Invention

The disclosed invention relates generally to verifying port mapping integrity in a network (Spec. 1).

Independent claim 1 is illustrative:

1. A method for verifying port mapping integrity in a network, comprising:

accessing port binding information in a port authorization file in said network;

querying a port mapper for a mapped port assignment;

comparing said mapped port assignment to said port binding information; and

initiating a response to said comparing.

The References

The Examiner relies upon the following references as evidence in support of the rejections:

Nickles	US 6,134,591	Oct. 17, 2000
Copeland	US 2002/0144156 A1	Oct. 03, 2002
Hrabik	US 6,988,208 B2	Jan. 17, 2006
		(filed Jul. 16, 2002)

The Rejections

1. The Examiner rejects claims 1-6, 8-11, 14-18, and 20 under 35 U.S.C. § 102(a) as being anticipated by Copeland.

2. The Examiner rejects claims 7, 12, and 19 under 35 U.S.C. § 103(a) as being unpatentable over Copeland and Hrabik.
3. The Examiner rejects claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Copeland and Nickles.

ISSUE

Appellants assert that “Copeland fails to teach or suggest comparing mapped port assignment to port binding information” (App. Br. 13).

Did Appellants demonstrate that the Examiner erred in finding that Copeland discloses comparing mapped port assignment to port binding information?

FINDINGS OF FACT

The following Findings of Facts (FF) are shown by a preponderance of the evidence.

1. Copeland discloses an engine that “analyzes the flow data . . . from probes” (¶ [0060]) to determine current (or observed) network services.
2. Copeland discloses “comparing observed current network services with a stored profile of allowed network services for a particular host” (¶ [0062]).

3. Copeland discloses that the stored profile is “a port profile of allowable network services” (§ [0062]) “for all allowed operations (the ‘Port Profile’)” (§ [0063]).
4. Copeland discloses that the “initial port profile” is “to be built up automatically” (§ [0069]) involving an “initial service usage collection” in which “new services and the services are automatically updated in the profile” (*id.*).
5. Copeland discloses “comparing a predetermined port profile for a host against that host’s recent activity” (§ [0088]).

PRINCIPLES OF LAW

35 U.S.C. § 102

In rejecting claims under 35 U.S.C. § 102, “[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation.” *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citation omitted).

Obviousness

The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966).

“The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 416 (2007).

ANALYSIS

Based on Appellants’ arguments in the Appeal Brief, we will decide the appeal on the basis of claim 1 alone. *See* 37 C.F.R. § 41.37(c)(1)(vii).

As set forth above, Copeland discloses comparing currently observed network services, via analyzing flow data, with a stored profile of allowed network services for a particular host (FF 1, 2). The stored profile of Copeland includes a list of allowed operations for a particular host (FF 3). Since the allowed operations stored in the profile include port assignments of a host that are allowed for that host, we find no difference between Copeland’s stored profile of allowed network services for a host and the claimed “port binding information.”

Appellants argue that “the port binding information [of the present invention] is established during initialization of the network (page 9 of the specification) and is not based on observed data flow as with Copeland” (App. Br. 10). However, as described above, Copeland discloses that the stored profile of allowed network services (FF 2) is “built up automatically” in modes that include “initial service usage collection” (FF 4). As such, we do not find, and Appellants have not demonstrated, that the stored profile of

allowed network services for a particular host of Copeland is “based on observed data flow” as Appellants contend.

Since Copeland builds up a stored profile of allowed network services of a host using initial usage collection (i.e., during initialization of the profile), Copeland’s stored profile is established during initialization of the profile. Claim 1 does not require that the port binding information be established during initialization of a network as Appellants appear to argue. However, even assuming that such a feature is required in claim 1, Appellants have failed to demonstrate how Copeland’s creation of the stored profile of allowed network services for a host during initialization is distinct from the claimed “port binding information” that, according to Appellants, is presumably also established during initialization of a network.

Appellants further argue that “[t]he port binding information is not based on port usage, as with Copeland” (App. Br. 11). However, Copeland discloses that the stored profile of allowed network services for a particular host includes a profile of allowable network services for hosts and a list of all allowed operations for a host (FF 2, 3). Hence, Copeland discloses permissible port usage of a host for various services. Appellants state that the port binding information of Copeland is based on port usage but have failed to demonstrate where Copeland supposedly discloses that the stored profile only includes information that is “based on port usage.” Rather, we find that Copeland discloses that the stored profile includes information

pertaining to allowed network services of a host (FF 2, 3). Therefore, we cannot agree with Appellants' argument.

Copeland also discloses comparing the stored profile of allowed network services of a host (i.e., "port binding information") with observed current network services (FF 1, 2). While Appellants argue that Copeland "fails to teach or suggest comparing mapped port assignment to port binding information" (App. Br. 13), Appellants have failed to demonstrate how the claimed step of comparing mapped port assignment to port binding information differs from Copeland's disclosure of comparing observed current network services (i.e., "mapped port assignment") to a stored profile of allowed network services for a host (i.e., "port binding information"). In fact, Copeland's comparing of observed network services with stored information describing allowed network services of a host appears identical to the disputed claimed feature.

Independent claims 8 and 15 recite similar features as claim 1. Also, Appellants do not provide any additional arguments in support of dependent claims 2-6, 9-11, 14, 16-18, and 20 or of dependent claims 7, 12, 13, and 19 that the Examiner rejects under 35 U.S.C. § 103(a).

For at least the aforementioned reasons, we conclude that Appellants have not sustained the requisite burden on appeal in providing arguments or evidence persuasive of error in the Examiner's rejection of claim 1, or of claims 2-20, which fall therewith.

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude that Appellants have failed to demonstrate that the Examiner erred in finding that Copeland discloses comparing mapped port assignment to port binding information.

DECISION

We affirm the Examiner's decision rejecting claims 1-6, 8-11, 14-18, and 20 under 35 U.S.C. § 102(a) and claims 7, 12, 13, and 19 under 35 U.S.C. § 103.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

peb

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